IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7580 2006.

Smt. Kalpana Dinanath Patil ... Petitioner.
V/s.
Shri Dinanath B. Patil. .. Respondent.

Shri N.P. Bhavsar for the petitioner.

Shri D.B.Sawant for the respondents.

CORAM: R.C.CHAVAN,J

DATED: 11th January 2007.

P.C.:

. Heard learned Counsel for the petitioner.

2. By this petition, petitioner takes exception to the order passed by the learned Judge of the Family Court, Mumbai, awarding the petitioner maintenance of Rs. 1,000/- p.m. Petitiioner's case is that the respondent-husband owns property inherited by him from his mother and, therefore, has a substantial income which would warrant payment of Rs. 5,000/- p.m. to the petitioner and Rs. 5,000/- p.m. for the petitioner's son.

3. I have gone through the order. The documents produced on record by the learned Counsel for the petitioner show that the the property is in the name of the respondent's mother

and not in the name of the respondent-husband. It is stated by the learned Counsel for the respondent that respondent's mother has 4 daughters apart from the respondent, and, therefore, it cannot be said that entire income from the property would be available to the respondent. Respondent is stated to be a handicapped person as can be seen from the documents and also from the order of the Courts below.

4. The impugned order is an interim order.At the trial, it would be open for the petitioner to establish on evidence that the respondent is in a position to pay higher quantum of maintenance. The order does not call for interference in writ jurisdiction under Article 227 of the Constitution of India. Petition is therefore, dismissed.

(R.C.CHAVAN,J.)